

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

**IN THE MATTER OF SPECIFIED LICENSE AND PERMITS OF THE
STATE WATER PROJECT AND THE CENTRAL VALLEY PROJECT**

**ORDER APPROVING A PETITION FOR TEMPORARY CHANGE IN THE PLACE OF
USE OF LICENSE AND PERMITS OF THE CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES BUREAU OF RECLAMATION**

SOURCE: Sacramento – San Joaquin Delta

COUNTIES: Fresno, Imperial, Kern, Kings, Los Angeles, Madera, Merced, Orange, Riverside, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, Tulare, and Ventura (SWP and CVP Places of Use)

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 OVERVIEW

On May 19, 2023, the Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation) (hereinafter jointly referred to as Petitioners) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), a Petition for Change Involving Water Transfers under Water Code Section 1725, et seq. With the petition, DWR requests a one-year modification of Permit 16479 and Reclamation requests a one-year modification of License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 to temporarily change the authorized place of use of: (1) the DWR permit to include the Central Valley Project (CVP) authorized place of use downstream of Jones Pumping Plant (Jones); and (2) the Reclamation license and permits to include the State Water Project (SWP) authorized place of use downstream of Harvey O. Banks Pumping Plant (Banks). The Petitioners use the term “downstream” to identify that portion of the SWP and CVP that is served by water diverted from the Jones and Banks Pumping Plants. These areas are served via a system of canals and holding reservoirs that is within the Petitioners’ control. These areas are not within the downstream water supply as defined in Water Code section 1725. The maximum total exchange quantity requested is up to 405,785 acre-feet (af). The changes requested will temporarily consolidate the SWP’s and CVP’s (hereinafter jointly referred to as the Projects’) respective authorized places of use for the license and permits that are the subject of the petition.

Petitioners indicate that the changes will more effectively and efficiently utilize the operational flexibility of the combined Projects to supply water south of Banks and Jones (collectively, the Delta Pumps). The Petitioners also indicate that the changes will address physical and timing limitations, will reduce energy and conveyance costs, and/or will implement certain parts of the San Joaquin River Restoration Program. The Petitioners state that the requested changes will facilitate the delivery of available Project supplies that already have been exported south of the Sacramento-San Joaquin Delta (Delta) and will maximize the beneficial use of available supplies. The Petitioners indicate approval of the petition will not increase the quantity or alter the timing of diversions from the Delta or San Joaquin River.

The temporary changes would become effective on July 22, 2023 and would remain in effect for one year. The total exchange quantity consists of the exchanges detailed in Section 2.4 below. The SWP and CVP license and permits subject to the proposed changes are listed in the table below.

SWP Water Rights Subject to Temporary Change

Application Number	Permit (P) Number	Description
14443	P16479	Oroville Project

CVP Water Rights Subject to Temporary Change

Application Number	License (L) or Permit (P) Number	Description
23	L1986	Friant Project
234	P11885	Friant Project
1465	P11886	Friant Project
5626	P12721	Shasta Project
5628	P11967	Trinity Project
5638	P11887	Friant Project
9363	P12722	Shasta Project
9364	P12723	Shasta Project
9368	P12727	Jones Pumping Plant
13370	P11315	Folsom Project
13371	P11316	Folsom Project
15374	P11968	Trinity Project
15375	P11969	Trinity Project
15764	P12860	San Luis Reservoir
16767	P11971	Trinity Project
17374	P11973	Trinity Project
17376	P12364	Whiskeytown Lake

On July 22, 2022, the State Water Board approved a similar petition filed by the same Petitioners to exchange up to 393,385 af of water to primarily the same buyers. As of June 23, 2023, 46,740 af of water has been exchanged.

2.0 SUBSTANCE OF TEMPORARY CHANGE PETITION

2.1 Existing Place of Use of Petitioners Water Rights

The service area of the SWP is shown on maps 1878-1, 1878-2, 1878-3, and 1878-4 (on file under Application 5629) and the service area of the CVP is shown on map 214-208-12581 (on file under Application 5626).

2.2 Place of Use under the Proposed Temporary Change Petition

In order to consolidate the SWP and CVP authorized places of use, the Petitioners have requested:

- 1) the temporary addition of the CVP service area downstream of Jones to the place of use under DWR's Permit 16479; and
- 2) the temporary addition of the SWP service area downstream of Banks to Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364.

These temporary additions would be for the purpose of completing the exchanges described below and would be effective for one year following the date the petition is approved. The areas to be added to the SWP are shown on Map No. 214-202-83 and the areas to be added to the CVP are shown on Map No. 214-202-84 submitted with the petition.

2.3 Improved Drought Conditions

Due to improved hydrologic conditions in late 2022 and early 2023, all Project contractors have been given a 100 percent allocation, which is not expected to change. Therefore, for 2023 it is expected that all Project contractors' demands will be met by their Project supplies/allocations.

As of May 1, 2023, Project allocations were:

SWP south-of-Delta contractors: 100 percent
CVP south-of-Delta irrigation contractors: 100 percent
CVP south-of-Delta municipal and industrial contractors: 100 percent
CVP Friant contractors: 100 percent

For the San Joaquin River Restoration Program, Reclamation is currently forecasting a “Wet” water year type, providing 557,038 acre-feet to be used for Restoration Program purposes.

2.4 Exchanges Proposed

The petition identifies the possible exchanges enumerated below and the corresponding justification for each. On July 9, 2020, DWR and Reclamation submitted a memorandum with information regarding the use of water in the absence of the proposed exchanges, which has been incorporated into the descriptions of each exchange. This information is still pertinent and has been updated as applicable for the petition. All exchanges covered by this petition will occur south of the Delta and the total amount of water exchanged will not exceed 405,785 af. Note that for exchanges associated with a groundwater bank, the quantities listed below already account for banking losses (i.e., groundwater bank losses have already been subtracted from the quantity to be delivered pursuant to respective groundwater banking agreements). Petitioners state that banking loss is 10 percent in the Semitropic Water Storage District’s (Semitropic) groundwater bank, 10 percent in Arvin-Edison Water Storage District’s (Arvin-Edison) groundwater bank, 10 percent in Kern Bank, North Kern Bank, and West Kern Bank; and 11 percent in Rosedale-Rio Bravo Water Storage District’s (Rosedale) groundwater bank.

Per email dated July 17, 2023 from DWR, two of the Kern County Water Agency (Kern County WA) exchanges (B.vii. and B.viii. in the petition) that were originally described as involving groundwater substitution have been revised to only involve surface water.

Santa Clara Valley Water District

Santa Clara Valley Water District (Valley Water) contracts for water supplies from both SWP and CVP. DWR delivers SWP water to Valley Water through the South Bay Aqueduct (SBA) and Reclamation delivers CVP water to Valley Water from the San Luis Reservoir through the San Felipe Division. Valley Water has previously banked CVP water in Semitropic’s groundwater bank. Petitioners request the approval of up to 125,000 af of exchanges including: (1) exchange of up to 75,000 af of SWP and CVP water to address potential operational and maintenance issues in the San Felipe Division and SBA, and (2) exchange of up to 50,000 af of banked CVP water with SWP water.

Valley Water anticipates potential constraints on their operational flexibility to receive their CVP deliveries via the San Felipe Division. With the approval of the petition, during reduction of CVP deliveries from the San Felipe Division, DWR will export and deliver SWP water equivalent to the reduced CVP amount through SBA to Valley Water. Reclamation will return an equal amount of CVP water at the O’Neill Forebay to DWR for use within the SWP service area south of the O’Neill Forebay.

The SBA has experienced many unplanned outages over the last several years due to aging infrastructure that resulted in Valley Water being reliant on CVP deliveries to meet its demands. Valley Water anticipates unplanned shutdowns on the SBA may limit SWP deliveries to its service area. With the approval of the petition, Reclamation will export and deliver CVP water through the San Felipe Division to help Valley Water maintain its operational flexibility when there are reductions in SWP deliveries from the SBA. DWR will return an equal amount of SWP water to Reclamation for use within the CVP service area south of these facilities.

Valley Water has previously banked CVP water in Semitropic. With the approval of the petition, Semitropic will extract up to 50,000 af of Valley Water's banked CVP water from the aquifer and either: (a) pump the stored water into the California Aqueduct through Semitropic's turn-in facilities for delivery to the SWP service area south of Semitropic, or (b) use Valley Water's previously stored water within Semitropic's own service area. In exchange, DWR will deliver an equal amount of SWP water to Valley Water through either the SBA and/or the San Felipe Division from San Luis Reservoir. The proposed exchange would not increase the total amount of CVP or SWP water allocated to Valley Water by DWR or Reclamation.

Absent the petition, Valley Water's CVP supplies would be banked in Semitropic if storage capacity is available or another groundwater bank that has capacity. The SWP water to be exchanged would be supplied to other SWP contractors within existing allocations. Absent the exchange, DWR could enter into a Warren Act contract with Reclamation to supply SWP water through Pacheco Tunnel directly. Alternatively, the unused SWP supplies could be banked in Semitropic's groundwater bank if storage capacity is available or another groundwater bank that has capacity.

The CVP water to be exchanged would be supplied to other south-of-Delta CVP contractors within their existing allocations. Absent the exchange, Semitropic would not be able to return Valley Water's CVP water directly, and Valley Water's CVP supplies would be returned via CVP to CVP exchanges under other existing CVP programs.

Kern County WA – Kern-Tulare Water District Exchange: Cross Valley Canal Capacity Limitations

Kern-Tulare Water District (Kern-Tulare) is within Kern County and has a contract for CVP water through the Cross Valley Canal (CVC). DWR will deliver up to 53,300 af of Kern County WA's SWP water to Kern-Tulare within the SWP place of use during the 2023 summer months. With the approval of the petition, Reclamation will return the same amount of Kern-Tulare's CVP water in later 2023 and/or early 2024 through the CVC or other points of delivery as approved to Kern County WA.

Absent the exchange, Kern-Tulare would use its CVP water at a later time, and Kern County WA would use its SWP water within its service area.

Kern County WA – Westlands Water District Exchange of Banked CVP Water in Semitropic's Groundwater Bank

Westlands Water District (Westlands), a CVP contractor outside of the SWP place of use, has stored CVP water in Semitropic's groundwater bank. DWR proposes to make available up to 2,300 af of Kern County WA's SWP water at O'Neill Forebay for Reclamation. Reclamation will then deliver this water to Westlands through the joint-use San Luis Canal. In return, an equivalent amount of Westlands' CVP water stored in Semitropic's groundwater bank will be delivered to Kern County WA to use in their service area.

Absent this exchange, Westlands' CVP supplies stored in Semitropic would be returned via CVP to CVP exchanges under existing programs. Semitropic would retain its SWP water for use within its service area.

Kern County WA – Arvin-Edison Water Storage District San Joaquin River Restoration Program (SJRRP) Recaptured Water Exchange

Westside Mutual Water Company (Westside Mutual) holds lands in Kern County WA, that are within the SWP place of use but outside the CVP place of use. Arvin-Edison is a CVP contractor with SJRRP Recaptured water stored in San Luis Reservoir. Arvin-Edison and Kern County WA propose an exchange of Project supplies to more efficiently manage their available water supplies and allow for additional flexibility.

Reclamation will make up to 20,000 af of Arvin-Edison's SJRRP Recaptured water available at the O'Neill Forebay for DWR's delivery to Kern County WA. In return, DWR will make available an equivalent amount of SWP water at the O'Neill Forebay for Reclamation to deliver to Arvin-Edison.

Absent the exchange, Kern County WA would use the SWP water at a later time. Arvin-Edison would either bank the water, use in-district, or seek to exchange SJRRP Recaptured water with another party.

Kern County WA – Westlands Water District Exchange of Banked CVP Water in the Kern Water Bank

DWR will make up to 5,000 af of Kern County WA's SWP water available at O'Neill Forebay for Reclamation to deliver to Westlands. In exchange, the CVP water stored in the Kern Water Bank by Westlands will be used by Kern County WA.

Absent this exchange, Kern County WA will retain its SWP water for use within its service area and Westlands will seek supplemental water supplies or an exchange with another CVP contractor to effect return of the banked CVP water.

Kern County WA – Exchange of Banked CVP Water in the Rosedale Groundwater Bank

Rosedale-Rio Bravo Water Storage District (Rosedale) is a member unit of Kern County WA that receives SWP water. It operates a groundwater bank inside both the CVP and SWP place of use that stores CVP water, SWP water, and local water for its banking partners. Three of the banking partners want to recover water stored in Rosedale: Santa Clarita Valley Water Agency (Santa Clarita) will recover up to 8,000 af of previously stored SWP and Kern River water; Coachella Valley Water District (Coachella) will recover up to 4,000 af of previously stored Kern River water; and Irvine Ranch Water District (Irvine Ranch) will recover up to 8,000 af of previously stored SWP and Kern River water.

With the approval of the petition, Santa Clarita, Coachella, and Irvine Ranch will transfer up to 20,000 af of their water stored in Rosedale's groundwater bank to Rosedale's CVP banking partners (Kern-Tulare, Delano-Earlimart Irrigation District (Delano-Earlimart ID), Arvin-Edison, and/or the San Joaquin River Exchange Contractors Water Authority (SJRECWA or Exchange Contractors)). In return, Reclamation will deliver an equivalent amount of CVP SJRRP Recaptured water and/or CVP Delta (Exchange Contractors) water¹ from the CVP banking partners to DWR at the O'Neill Forebay for delivery to Santa Clarita, Coachella, and Irvine Ranch.

Absent the exchange, Rosedale's banked SWP water would be conveyed from the CVC to the California Aqueduct for delivery to Santa Clarita, Coachella and Irvine Ranch. Absent the exchange, Kern-Tulare's, Delano-Earlimart ID's and Arvin-Edison's CVP SJRRP Recaptured water would be banked or transferred. Exchange Contractors' water would be conveyed through the Delta-Mendota Canal and Mendota Pool for delivery to the Exchange Contractors, or the Exchange Contractors would continue its consumptive use reduction actions and facilitate a different exchange.

¹ Prior to construction of the Central Valley Project, water right holders near Fresno diverted irrigation water from the San Joaquin and North Fork Kings Rivers. The Central Valley Project involved construction of dams in the Central Valley along the Sacramento, American and San Joaquin Rivers. When Friant Dam (north of Fresno) was constructed, downstream water rights holders formed a group called the Exchange Contractors and agreed to "exchange" where they receive their pre-1914 appropriative and riparian water from the San Joaquin and Kings Rivers for guaranteed deliveries of "substitute" water from the Sacramento River by means of the Delta-Mendota Canal and other facilities of Reclamation. This water is referred to as CVP (Exchange Contractors) water or Exchange Contractors' Settlement water. The Exchange Contractors also agreed not to exercise their San Joaquin and Kings River water rights if guaranteed water deliveries continued through the Delta-Mendota Canal and other facilities of Reclamation. In the event that Reclamation is unable to make its contracted deliveries of substitute water to the Exchange Contractors, the Exchange Contractors have reserved the right to receive their water from the San Joaquin River to satisfy their historic rights.

*Kern County WA – San Joaquin River Exchange Contractors Water Authority –
Rosedale Unbalanced Exchange Program*

In 2017 and 2019, SJRECWA and Rosedale entered into an unbalanced (2:1) exchange program. The Exchange Contractors delivered 10,000 af of its CVP water in 2017, 5,000 af of its CVP water in 2019, and 5,000 af of its CVP in 2020 to lands within Rosedale's service area in the CVP place of use for banking and direct use. Rosedale will forego up to 3,485 af of its SWP water and DWR will make this water available at the O'Neill Forebay for Reclamation to deliver to the Exchange Contractors and/or the Exchange Contractors' partners throughout the CVP place of use.

Absent this exchange, Rosedale would either bank its SWP water or use it in its service area. This exchange will not result in additional return flows to the San Joaquin River. The Exchange Contractors have reduced consumptive use to make exchange water available and may also use the return water to irrigate their lands that otherwise would have been irrigated by groundwater, resulting in less or the same amount of return flows, with or without the exchange.

*Kern County WA – Kern-Tulare Water District Exchange of Banked CVP Water in the
West Kern and Rosedale Groundwater Banks; Facilitation of a non-Project Transfer to
Westlands Water District*

Kern-Tulare, a CVP contractor outside of the SWP place of use, has stored CVP water in the West Kern and Rosedale Groundwater Banks. Both Banks are member units of Kern County WA within the SWP place of use. Westlands, a CVP contractor, has acquired 3,000 af of CVP Friant water and/or pre-1914 Kings River water from Fresno Irrigation District (Fresno ID), but this water cannot be directly conveyed to Westlands. To facilitate this transfer and the return of banked water, a three-way exchange is proposed. Fresno ID will make its pre-1914 Kings River water available for transfer through recovery of banked surface water.

Reclamation will deliver 3,000 af of CVP Friant water and/or Kings River water from Fresno ID to Kern-Tulare, who can physically take delivery of the water through the Friant-Kern Canal. Since this is a CVP to CVP delivery, it does not require State Water Board approval.

With this approval, DWR will deliver 3,000 af of Kern County WA's SWP water to Westlands, and Kern County WA will use 3,000 af of Kern-Tulare's banked CVP water within its service area.

Absent the exchange, Kern County WA's SWP water would be conveyed from the California Aqueduct for delivery to its service area. Kern-Tulare's previously banked CVP water would be recovered and conveyed to the Friant-Kern Canal from the CVC for Kern-Tulare's in-district use. Westlands would not receive water from Fresno ID.

Fresno ID would consumptively use its CVP and Kings River water, transfer the Kings River water, or exchange the water with another entity.

Kern County WA – Pixley Irrigation District and Lower Tule River Irrigation District - Tulare Irrigation District, Porterville Irrigation District, and Saucelito Irrigation District

Homer, LLC (Homer) owns farmland in Kern County WA and in these CVP contractors' service areas: Pixley Irrigation District (Pixley), Lower Tule River Irrigation District (Lower Tule), Tulare Irrigation District (Tulare), Porterville Irrigation District (Porterville), and Saucelito Irrigation District (Saucelito). Homer receives Kaweah River water in the CVP place of use under the Wutchumna Water Company's pre-1914 water right.

Porterville has previously banked CVP water in a private banking facility within Porterville. Porterville and Saucelito also receive pre-1914 Tule River water.

Homer proposes to transfer Kaweah River water, received under Wutchumna Water Company's pre-1914 water right, to Tulare, Porterville, and Saucelito. In exchange, Tulare, Porterville, and Saucelito will transfer/make available an equivalent amount of pre-1914 Tule River and CVP Friant water to Pixley and Lower Tule. Pre-1914 water transfers/exchanges do not require State Water Board approval.

With this approval, Reclamation will make available up to 37,500 af of Pixley and Lower Tule's CVP CVC water at O'Neill Forebay for DWR to deliver to Kern County WA.

Pixley and Lower Tule receive CVP Friant water and CVC water. Absent this proposed exchange, Pixley and Lower Tule would exchange their CVC water with other CVP contractors. Kern County WA would consumptively use its SWP water. Tulare, Porterville, and Saucelito would consumptively use their Tule River and/or CVP water supplies or leave those supplies in existing storage reservoirs.

Kern County WA – SJRRP CVP Water Contractors – Shafter-Wasco Irrigation District

Porterville Irrigation District, Saucelito Irrigation District, Stone Coral Irrigation District, Fresno Irrigation District, Southern San Joaquin Municipal Utility District, Ivanhoe Irrigation District, and Exeter Irrigation District (collectively referred to here as SJRRP Districts) and Shafter-Wasco Irrigation District (Shafter-Wasco) are Friant Unit contractors with Friant Recaptured and Recirculated CVP water as part of the SJRRP. The SJRRP Districts are unable to take delivery of their SJRRP CVP water supplies in San Luis Reservoir as no infrastructure currently exists to allow for delivery to each district. Westside Mutual is a landowner within Kern County WA with lands outside of the CVP place of use but within the SWP place of use. Westside Mutual has Wutchumna Water Company's pre-1914 Kaweah River water banked in North Kern groundwater bank; however, there are no conveyance facilities that would allow Westside Mutual to recover and deliver the banked water to its lands within Kern County WA.

Under this proposed three-way exchange, Westside Mutual will recover up to 5,000 acre-feet of its previously banked Kaweah River water in North Kern's groundwater bank for delivery to Shafter-Wasco for use in-district. Shafter-Wasco will provide a like amount of Friant Class 1 and/or Class 2 water supplies to Millerton Lake for the SJRRP Districts. (These actions do not require SWRCB approval.) In exchange, with the approval of this petition, Reclamation will make up to 5,000 acre-feet of SJRRP Districts' SJRRP CVP water available at O'Neill Forebay for DWR to deliver to Kern County WA via the California Aqueduct.

Absent this exchange, the SJRRP Districts' CVP water would remain in San Luis Reservoir pending additional exchange opportunities. Westside Mutual's banked Kaweah River water would remain in North Kern's groundwater bank and Westside Mutual would be forced to obtain supplemental supplies for use on their lands in Kern County WA. Shafter-Wasco would continue to use its Friant Class 1 and/or Class 2 water supplies in-district.

Kern County WA – Shafter-Wasco Irrigation District SJRRP CVP Supplies

Shafter-Wasco has SJRRP CVP water in San Luis Reservoir that it is unable to deliver in-district due to conveyance constraints. Westside Mutual is a landowner within Kern County WA with lands outside of the CVP place of use but within the SWP place of use. Westside Mutual has Wutchumna Water Company's pre-1914 Kaweah River water banked in North Kern groundwater bank; however, there are no conveyance facilities that would allow Westside Mutual to recover and deliver the banked water to its lands within Kern County WA.

This exchange will provide operational flexibility by allowing Shafter-Wasco to take direct delivery of up to 2,000 acre-feet of Westside Mutual's pre-1914 Kaweah River water banked in North Kern Water Storage District's groundwater banking project. Since this exchange involves pre-1914 water, it does not require State Water Board approval. In exchange, with the approval of this petition, Reclamation will make available an equivalent amount of Shafter-Wasco's SJRRP CVP water at O'Neill Forebay for DWR to deliver to Kern County WA.

Absent this exchange, Shafter-Wasco will seek deals with other entities to exchange or sell its SJRRP CVP water in San Luis Reservoir; Westside Mutual's Kaweah River water will remain in North Kern groundwater bank; and Westside Mutual will need to secure other supplies to meet demands in its lands within Kern County WA.

Kern County WA – Kern-Tulare Water District - Tulare Irrigation District – Lindsay-Strathmore Irrigation District

Kern-Tulare Water District (Kern-Tulare) is a Cross Valley Canal CVP contractor and has previously banked CVP water in West Kern Water District's groundwater banking program. Tulare ID and Lindsay-Strathmore are CVP Friant Unit contractors. Westside Mutual holds lands within several CVP contract service areas and one of its members (Wuchumna Water Company) holds a pre-1914 water right for Kaweah River water.

Reclamation will deliver up to 3,500 af of previously banked water in West Kern's groundwater bank to Kern County WA for use within its service area through an exchange with Kern-Tulare.

In return, Westside Mutual will deliver an equivalent amount of Kaweah River water to Tulare ID and Lindsay-Strathmore. Since this exchange involves pre-1914 water, it does not require State Water Board approval.

Absent this exchange, Westside Mutual would retain the Kaweah River water for exchange with other entities. Tulare ID and Lindsay-Strathmore would consumptively use their CVP Friant supplies in-district. Kern-Tulare's previously banked CVP water would be recovered and conveyed to the Cross Valley Canal and into the Friant-Kern Canal for delivery to Kern-Tulare for in-district use. Westside Mutual, a landowner in Kern County WA, would be forced to acquire supplemental water supplies to meet existing demands.

Kern County WA –Tulare Irrigation District – Lindsay-Strathmore Irrigation District – Lower Tule River Irrigation District – Pixley Irrigation District

Under a three-way exchange, Tulare ID and Lindsay-Strathmore will deliver up to 5,000 af of CVP Friant water supplies from Millerton Lake to Lower Tule River ID and Pixley ID. Westside Mutual will transfer up to 5,000 af of its pre-1914 Kaweah River water to Tulare ID and Lindsay-Strathmore. Since this exchange involves pre-1914 water, it does not require State Water Board approval. In exchange, with approval of this petition, Reclamation will make available an equivalent amount of Lower Tule and Pixley's CVC CVP water for DWR to deliver to Kern County WA for use within its service area or for banking in the Kern Water Bank.

Absent this exchange, Westside Mutual would retain the Kaweah River water for exchange with other entities. Tulare and Lindsay would consumptively use their CVP Friant supplies in-district. Lower Tule River ID and Pixley ID would have to find other ways to exchange their Cross Valley CVP water supplies. Westside Mutual, a landowner in Kern County WA, would be forced to acquire supplemental water supplies to meet existing demands.

Arvin-Edison – Metropolitan Water District Program

Metropolitan Water District (Metropolitan) is a SWP contractor. Arvin-Edison is a CVP contractor within both the CVP and SWP place of use. Petitioners propose to expand the CVP place of use to include Metropolitan, which would allow Arvin-Edison to exchange up to 100,000 af of CVP water supplies (SJRRP Recaptured and Friant) with Metropolitan's SWP water.

The following conveyance mechanisms would take place for Metropolitan to receive Arvin-Edison's CVP water:

- 1) Arvin-Edison's CVP Friant water (including other CVP Friant water acquired by Arvin-Edison) would be conveyed either: (a) from the Friant-Kern Canal through Arvin-Edison's distribution system connected to the California Aqueduct at Milepost 227 (Reach 14C), or (b) from the Friant-Kern Canal through the CVC to the California Aqueduct, or;
- 2) Reclamation will make Arvin-Edison's CVP SJRRP Recaptured water (including other CVP water acquired by Arvin-Edison) available at the O'Neill Forebay for DWR to deliver through the California Aqueduct to Metropolitan.

Currently, depending on annual SWP allocations, Metropolitan stores a portion of its SWP supply in Arvin-Edison's groundwater banking facilities, which are located within Arvin-Edison's service area. When requested by Metropolitan, Arvin-Edison is obligated to return Metropolitan's previously banked SWP water to Metropolitan. Absent this proposed exchange, Arvin-Edison would return previously banked SWP water through groundwater extraction and deliver the water to Metropolitan through the California Aqueduct. To increase the flexibility of returning water to Metropolitan, Petitioners propose that Arvin-Edison exchange Metropolitan's previously banked water with their CVP water supplies. Arvin-Edison would use Metropolitan's previously banked SWP water within its service area. Reclamation will deliver Arvin-Edison's CVP water supplies to Metropolitan to use in their service area in lieu of Arvin-Edison physically extracting and delivering Metropolitan's previously stored SWP water. Upon delivery of Arvin-Edison's CVP water to Metropolitan, Metropolitan will then transfer an equivalent amount of its stored SWP water in the groundwater bank to Arvin-Edison for Arvin-Edison's use.

Petitioners also propose that Metropolitan take delivery of Arvin-Edison's CVP water and later return SWP water from San Luis Reservoir to reduce the energy usage associated with Arvin-Edison's underground storage and subsequent withdrawal of CVP supplies. Petitioners also propose to exchange Arvin-Edison's Friant Division Supply with Metropolitan to effectuate delivery of water to meet Exchange Contractor demands that would otherwise be delivered from Millerton Lake on the San Joaquin River.

Finally, to reduce the risk of spill and subsequent potential loss of water supplies, Arvin-Edison proposes to exchange their CVP water with Metropolitan's SWP water. Metropolitan would assist Arvin-Edison in regulating the available CVP supplies. Metropolitan would return a lesser amount (i.e., two af for every three af received). In the absence of the exchange with Metropolitan, Arvin-Edison would deliver the available CVP contract supplies to groundwater banking programs within the Arvin-Edison service area or other areas that are within the CVP place of use.

Absent the exchange, Arvin-Edison would extract Metropolitan's banked SWP supplies and return them directly at a return rate limited to 170 cfs. Arvin-Edison would consumptively use its CVP water within its service area, bank it, or transfer it under the CVP's Accelerated Water Transfer Program². Absent the exchange, Arvin-Edison would seek to reschedule CVP supplies in CVP reservoirs, transfer, exchange, or bank with other approved banking programs subject to storage capacity. Metropolitan only assists Arvin-Edison with regulation of Arvin-Edison's CVP supplies when San Luis Reservoir is full.

Potential Additional Exchanges

The above exchanges include the specific exchanges requested as of the date of the petition. However, the Petitioners anticipate that additional exchanges may be developed. The Petitioners request that any Order approving this petition include the approval of potential future projects that meet certain specific criteria. In order to allow the State Water Board to make the findings required by Water Code Section 1725, the Petitioners have indicated that any project not specifically detailed in the exchanges listed above would be conducted in accordance with the following criteria:

1. The exchange would not result in any increase in the amount of water diverted from the Delta. The water to be exchanged would be part of any available Project allocations, water currently stored in San Luis Reservoir, or previously placed in groundwater storage south of the Delta.
2. The water to be exchanged would have been consumptively used or stored in the absence of the exchange.
3. The total quantity of water delivered to SWP or CVP contractors as a result of the exchange will not exceed historic average deliveries.

² The CVP's Accelerated Water Transfer Program involves annual water transfers and/or exchanges by water contractors in the same geographical area in order to meet agricultural demands, municipal or industrial demands, or other water requirements, pursuant to Section 3405(a) of the Central Valley Project Improvement Act. No additional environmental analysis would be needed. For additional information, see: https://www.usbr.gov/mp/nepa/nepa_project_details.php?Project_ID=48244.

4. The exchange will not result in a net loss of San Joaquin River or Sacramento River flow.
5. The exchange will not result in an increase in saline drainage to the San Joaquin River.
6. Prior to initiating any exchange not specifically listed above, DWR or Reclamation will provide the State Water Board with a description of the proposed exchange for review and approval consistent with this Order.
7. DWR and Reclamation will develop, in coordination with State Water Board staff, a reporting plan that will account for all water exchanged under the provisions of any order approving the petition. The reporting plan will include the parties to the exchange, how much water was to be exchanged, how the water was made available, locations where groundwater levels or percolation to groundwater may be affected, and the facilities required to affect the exchange.

Additional Information Submitted by Petitioners

On July 9, 2020, DWR and Reclamation submitted a memorandum regarding the use of water in the absence of the proposed exchanges, as requested by the State Water Board during its review of a similar petition in 2020. The response included both general information, which is summarized below, and information specific to each 2020 exchange. The general information is still pertinent, with incorporation of the updated information provided in the current petition, and applicable information has been updated for this transfer year.

Petitioners stated that Project allocations are based on the annual water supply available to SWP and CVP contractors. These allocations are focused on the ability to meet summer irrigation demands while meeting regulatory requirements and accounting for upstream storage and hydrologic conditions. Petitioners also stated that the Delta Pumps are operated at their maximum allowable rates and that this rate is always insufficient to meet peak summer irrigation demand. This insufficiency is addressed by operating San Luis Reservoir to augment Delta pumping to meet these demands. SWP has 21 south-of-Delta contractors that have contract amounts totaling 4,056,205 af, while the CVP has contracts with 43 entities south-of-Delta that total 2,112,898 af. For contract year 2023, which ends in either December of 2023 or February 2024 depending on the contract, the SWP allocation is 100 percent, the CVP irrigation allocation is 100 percent and the CVP municipal and industrial allocation is 100 percent.

The Petitioners also stated that JPOD was approved in 2001 as a means for Reclamation to use the Banks pumping plant to supply entities, such as a water agency or irrigation district. However, JPOD is subject to capacity availability in the California Aqueduct. The proposed exchanges are an alternative pathway under Reclamation's

water rights to deliver water. This alternative pathway of relying on exchanges applies to Valley Water. The Petitioners also describe exchanges as a way to return surface water banked in groundwater banks. Absent exchanges, groundwater bank operators would be simultaneously withdrawing banked surface water and conveying it through Project facilities to their clients while receiving their own Project supplies to irrigate. With an exchange, surface water can be delivered to another entity and previously banked groundwater can remain in place for use within the groundwater bank service area. The banked surface water must ultimately be used according to the purpose and place of its originating water rights; this petition addresses circumstances where the groundwater banker is in one place of use and the client is in another.

Petitioners stated Reclamation has an approved five-year accelerated water transfer program for all of the CVP contractors included in this petition except Valley Water. The Accelerated Water Transfer Program allows unused allocations to be transferred to other CVP contractors within the same basin. This program was analyzed in an Environmental Assessment titled "South-of-Delta Accelerated Water Transfer Program Contract Years 2021-2025".

Federal facilities have authority to facilitate groundwater banking of surface water supplies. All south-of-Delta CVP contracts allow groundwater banking of allocated supplies upon approval of the Contracting Officer. Groundwater banks must meet Reclamation guidelines and comply with the National Environmental Policy Act. Approved banks include those in this petition. These existing programs and groundwater banks have been approved, and thus CVP contractors can immediately access these programs if they are unable to directly apply their CVP water within their service areas. The CVP contractors would rely on these programs absent the approval of this petition.

The water proposed to be exchanged would be consumptively used with or without the approval of the petition due to the extent and locations of existing demand, and existing approved programs.

3.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY CHANGES

Pursuant to Water Code section 1725, Petitioners have applied for temporary changes involving an exchange of water. The State Water Board shall approve temporary changes involving the exchange of water under Water Code section 1725 et seq. if it determines that a preponderance of the evidence shows both of the following:

- a. The proposed changes would not injure any legal user of the water, during any potential hydrologic condition that the State Water Board determines is likely to occur during the proposed changes, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of water or return flows.

- b. The proposed changes would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1728, subd. (b).)

In addition, the proposed changes must involve only the amount of water that would have been consumptively used or stored in the absence of the temporary changes. (*Id.*, § 1726, subd.(e).)

Temporary changes pursuant to Water Code section 1725 may be effective for a period of up to one year from the date of approval. (Wat. Code, § 1725.5, subd. (b).) “The one-year period does not include any time required for monitoring, reporting, or mitigation before or after the temporary change is carried out.” (*Ibid.*)

The State Water Board considers the evaluation of public trust resources as part of its evaluation of impacts to fish, wildlife, or other instream beneficial uses under Water Code § 1728, subdivision (b)(2). The State Water Board also has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.)

4.0 PUBLIC NOTICE AND COMMENTS

The Division noticed Petitioners’ petition on May 30, 2023, to the Division’s website and via the State Water Board’s electronic subscription mailing list and written mailing list pursuant to Water Code section 1726, subdivision (d).

Timely comments on the proposed transfer were received from South Delta Water Agency (SDWA), Richard Morat, and Central Delta Water Agency (CDWA). Petitioners provided responses to comments by email and letter to the Division dated June 16, 2023 and July 12, 2023 and are available in the record.

4.1 Comments by SDWA

Comments were received on May 31, 2023 from SDWA.

SDWA commented that the notice of the petition only provided basic information about the Projects seeking operational flexibility but not a description or analysis of the transfer.

State Water Board Response

The State Water Board provided a copy of the petition with supplemental information to SDWA on May 31, 2023. The State Water Board notified the Petitioners that no response from the Petitioners was required.

4.2 Comments by Richard Morat

Comments were received on June 3, 2023 from Mr. Morat.

Mr. Morat requested an explanation of how the transfer would facilitate delivery of available Project supplies south of the Sacramento-San Joaquin Delta and maximize the beneficial uses of available Project supplies. He also expressed concern for potential adverse environmental impacts on fish and wildlife in areas: 1) north of export facilities at and below CVP and SWP storage facilities; 2) waterways south of export facilities; and 3) in San Joaquin Basin rivers draining north and into the estuary.

Petitioners' Response

A description of the transfer is provided in the Supplement to the subject petition. The water diverted by the Projects for this transfer has been previously diverted south of the Delta. This previously diverted water has already been allocated and distributed to the exchange parties and stored or will be stored in Project reservoirs south of the Delta, such as the San Luis Reservoir or Millerton Lake, or banked in groundwater banks owned and operated by Project contractors. Similarly, non-Project water involved in some of the proposed exchanges, such as pre-1914 water from the Kaweah River, is water that has already been diverted and banked in groundwater banks. There will be no new diversions conducted to provide water to fulfill the proposed exchanges.

DWR and Reclamation strive to comply with the water rights permits and license for the SWP and CVP, and with State Water Board orders and decisions, CDFW permits, court decisions, FERC requirements, and state and federal regulations and laws. The proposed exchanges are proposed actions for water that has been diverted in compliance with SWP and CVP water right terms and conditions and other applicable regulations and requirements.

Reclamation has conducted a National Environmental Protection Act (NEPA) analysis for the multiyear CVP water transfer agreements involved in many of the proposed exchanges.

State Water Board Response

Section 2.4 of this Order explains the details of the proposed exchanges.

As conditioned in this Order, the proposed change would not result in a change in the quantity or timing of diversions from the Delta or any associated impacts to aquatic resources in the Delta or substantial changes to the quantity or quality of return flows to the Delta. The Order is conditioned to require Petitioners to provide monthly reporting of exchanges, with amounts of each exchange by participating CVP and SWP contractors throughout the approval period. The Order is also conditioned such that: (1) no additional pumping from the Delta is allowed; and (2) the Petitioners must comply

with Revised Water Rights Decision 1641 (D-1641) and all applicable Water Right Orders, Biological Opinions, Incidental Take Permits, and court orders.

4.3 Comments by CDWA

Comments were received on June 29, 2023 from CDWA.

CDWA urged that no transfer of water for export from the Delta Watershed be allowed unless D-1641 requirements, without temporary urgency changes, are satisfied and that transfers should be subject to adequate evaluation, monitoring, and accounting of diversions. CDWA stated that all SWP and CVP agencies involved in the transfer should be signatories on the petition, further analysis is needed to quantify losses from the source of the transferred water, there is a lack of reference to groundwater management plans or compliance with Water Code section 1745.10, and there was failure to meet surplus water demands.

In addition, CDWA stated that the petition lacks sufficient information to support the findings per Water Code section 1725, et seq. CDWA also expressed concern for impacts to fish and wildlife from the San Joaquin River water and attached a scientific journal article titled “Lifetime Chronicles of Selenium Exposure Linked to Deformities in an Imperiled Migratory Fish” for reference.

CDWA questioned whether the DWR and Reclamation signatories of the Petition and Environmental Information forms were authorized representatives of DWR and Reclamation signatures. CDWA also indicated that a map of the project features was not provided.

Petitioners’ Response

Reclamation could find no authority regarding requirements for signatures on petition forms. There are two signatories on the petition representing Reclamation and DWR.

Comments related to development of projects by Reclamation and DWR to make five million acre-feet of water available from the North Coast of California for use in the Delta are not related to the findings the State Water Board must make per Water Code section 1725 et seq. Therefore, Reclamation and DWR have no further comment on this issue.

There will be no increase in either SWP or CVP allocations as a result of the proposed exchanges. There could be some shift in the timing of deliveries of SWP and CVP supplies south of the Delta; however, this will not affect streamflow. All of the water to be exchanged is water that would have been consumptively used or stored in the absence of the exchanges. Therefore, the proposed exchanges will not result in a measurable change in quantity or quality of return flows.

There will be no change in the amount of deliveries in the San Joaquin River watershed and the same amount of water would have been consumptively used or stored in the absence of the petition. There would be no change to the amounts of drainage. This conclusion is supported by the memorandum submitted by DWR and Reclamation on July 9, 2020, summarized above in Section 2.4. The proposed exchanges would be conducted south of the Delta and would not affect pumping from the Delta and CDWA did not include an analysis of how the subject Petition would cause adverse impacts to fish populations.

Transfer water has already been diverted south of the Delta. Therefore, comments on future hydrology or conveyance losses prior to the export pumps are not relevant. Also, comments regarding “an analysis of diversion of San Joaquin River Fish Restoration flows before they reach the Delta where they were intended to be available for recirculation” is not relevant since any recaptured Restoration flows are already present in San Luis Reservoir, and no additional flows (including Restoration flows) will be diverted as part of the proposed action.

Exchanges similar to those proposed above were conducted in several previous years consistent with the State Water Board orders approving DWR’s and Reclamation’s Petitions for Change Involving Water Transfers to consolidate the SWP and CVP places of use. No measurable effects on other legal users of water, fish and wildlife or the environment were noted from those exchanges. The analysis of no unreasonable effects on fish, wildlife, or other instream beneficial uses is included on pages 17-18 of the Supplement to the subject petition and maps of the proposed additional places of use are attached as pages 19 and 20.

State Water Board Response

The State Water Board has conditioned this Order to ensure that the proposed changes would not result in additional pumping from the Delta. There may be a shift in timing of deliveries subsequent to the Delta pumping, but the timing of Delta exports will not change as a result of the proposed change³. Absent the exchanges, the water would be consumptively used or stored by the Projects. The Petitioners have provided information for each exchange explaining how the water to be exchanged would be diverted and either used or stored in the absence of the proposed exchange, and that information has been incorporated into the exchange descriptions provided in Section 2.4. The information describes how the CVP and SWP contractors would use their allocations locally absent the exchanges or store the water in available groundwater banks. The information also describes how the entities would rely on alternate transfer mechanisms from existing CVP programs or would rely on existing groundwater banking programs to store the water in the absence of the change.

³ See “Additional Information Submitted by Petitioners” on pages 14 and 15 of this Order for further discussion on why there will not be additional pumping from the Delta due to this Order.

The petition is signed by representatives of DWR and Reclamation for the water right license and permits detailed in the petitions. DWR and Reclamation are the owners of the water right license and permits subject to the petitions.

The water proposed to be transferred has already been stored south of the Delta in reservoirs or groundwater banks. Also, as the Petitioners stated, any conveyance losses prior to diversion south of the Delta are not relevant to the transfer. The transfer of pre-1914 water is not under the authority of the State Water Board and does not require State Water Board approval. The two exchanges involving groundwater substitution transfer using Fresno ID's and the Wutchumna Water Company's pre-1914 water rights have been revised to only involve surface water as indicated above. They will not rely on groundwater substitution to make water available for exchange. Therefore, the comment regarding compliance with Water Code section 1745.10 is not applicable.

The transfer involves water already diverted to storage south of the Delta. The failure of the Projects to meet the five million acre-feet of surplus water needs by 2000 is not caused by this transfer. The State Water Board cannot place conditions on a temporary change to avoid or mitigate impacts that are not caused by the temporary change. (Water Code section 1728 (e).) Therefore, the transfer is not conditioned on meeting surplus water needs.

As conditioned in this Order, the proposed change would not result in a change in the quantity or timing of diversions from the Delta or any associated impacts to aquatic resources in the Delta or substantial changes to the quantity or quality of return flows to the Delta. The Order is conditioned to require Petitioners to provide monthly reporting of exchanges, with amounts of each exchange by participating CVP and SWP contractors throughout the approval period. The Order is also conditioned such that: (1) no additional pumping from the Delta is allowed; and (2) the Petitioners must comply with D-1641 and all applicable Water Right Orders, Biological Opinions, Incidental Take Permits, and court orders.

CDWA also attached its comments (Attachments A, B, and C) on petitions submitted by Reclamation and DWR in 2022, 2021, and 2020. The State Water Board addressed those comments in Orders dated July 22, 2022, July 14, 2021, and July 15, 2020. To the extent CDWA's 2022, 2021 and 2020 comments remain applicable to the transfers or exchanges proposed in the petition, the State Water Board hereby incorporates by reference the comment responses contained in the July 22, 2022, July 14, 2021, and July 15, 2020 Orders.

5.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Petitioners filed the petition for a temporary change involving water transfers under Water Code section 1725 et seq. Water Code Section 1729 exempts temporary changes involving a transfer or exchange of water from the requirements of CEQA (Pub. Resources Code, § 21000 et seq.). The State Water Board will file a Notice of Exemption.

6.0 REQUIRED FINDINGS OF FACT FOR PROPOSED EXCHANGES IN PETITION

The following discussion and findings are applicable to the following exchanges proposed in the petition: (a) 125,000 af to Valley Water; (b) 180,785 af to various Kern County WA exchanges; and (c) 100,000 af to Arvin-Edison-Metropolitan.

6.1 Transfer Only Involves Water That Would Have Been Consumptively Used or Stored

Before approving a temporary change due to an exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the exchange would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, §§ 1725, 1725.5, 1726.) Water Code Section 1725.5 defines “consumptively used” to mean “the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion.”

According to the petition and the additional information provided by the Petitioners, and as conditioned, the temporary changes proposed will not result in the diversion of additional water from the Delta or the delivery of more water to any individual water supplier or user than has been delivered historically. The exchanges proposed by the petition, including any potential future exchanges meeting the criteria outlined above, involve water that is part of the SWP or CVP contractors allocated supplies, and would be consumptively used or stored in the absence of the exchanges. Additionally, for each exchange described, the Petitioners have represented to the State Water Board that there are no operational constraints to divert and use the exchanged water in the existing place of use in the absence of the petition.

The exchanges are expected to allow agencies experiencing water supply restrictions to recover previously stored water or to optimize the beneficial use of their existing limited water supplies. The water proposed for exchange consists of either:

- a) Water stored pursuant to the specified permits of the CVP and SWP; or
- b) Water directly diverted pursuant to the specified license and permits of the CVP and SWP for use outside of the Delta watershed, and thus removed from use in the downstream water supply.

The direct diversion and collection of water to storage under the license and permits held by Petitioners may be subject to curtailment notices during the term of this transfer order. However, releases of water collected to storage prior to issuance of the curtailment notices are not subject to curtailment.

In light of the above, I find in accordance with Water Code Section 1726, subdivision (e), that the water proposed for exchange under DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 pursuant to this Order would be consumptively used or stored in the absence of the proposed temporary change.

6.2 No Injury to Other Legal Users of the Water

Before approving a temporary change due to a transfer or exchange of water pursuant to Article 1 of Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the temporary change would not injure any legal user of the water during any potential hydrologic condition that the State Water Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat Code, § 1728, subd. (b)(1).)

As conditioned, the changes approved in this Order will not result in any measurable changes to streamflow, water quality, timing of diversion or use, or return flows. The water to be exchanged is diverted out of the watershed from which it originates in conformance with the provisions of the respective water right license or permit(s) governing those diversions. There are no other legal users downstream of the points of diversion that would be affected by the exchanges.

The quantity and timing of diversions from the Delta will not change, however the delivery rates from San Luis Reservoir may differ. The scheduling of the deliveries will be coordinated between Petitioners so as not to adversely impact any SWP or CVP contractor deliveries. The Petitioners indicate that adequate capacity in the California Aqueduct and in the Delta-Mendota Canal is available and will not be adversely impacted as a result of the exchanges.

The exchanges are not expected to result in a measurable change in the quantity or quality of return flows. As conditioned, there will be no increase in either SWP or CVP diversions or allocations as a result of the proposed exchanges. There could be some

shift in the timing of deliveries of SWP and CVP supplies that already have been exported from the Delta. Exchanges similar to those proposed above occurred in 2009, 2010, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022 consistent with the provisions of Order WR 2009-0033, Order WR 2010-0032-DWR, and the July 6, 2012, July 1, 2013, March 28, 2014, April 27, 2015, May 17, 2016, June 8, 2017, July 2, 2018, July 15, 2019, July 15, 2020, July 14, 2021, and July 22, 2022. State Water Board Orders approving DWR's and Reclamation's petitions for change to consolidate the authorized places of use of the SWP and CVP. No measurable effects on other legal users of water were noted from those exchanges.

In light of the above, I find in accordance with Water Code section 1728, subdivision (b)(1), that the proposed temporary change of DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 will not injure any legal user of the water.

6.3 No Unreasonable Effect on Fish, Wildlife, or Other Instream Beneficial Uses

Before approving a temporary change in order to facilitate a transfer or exchange of water, the State Water Board must find that the proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1728, subd. (b)(2).) In accordance with California Code of Regulations, Title 23, section 794 (c), Petitioners provided California Department of Fish and Wildlife (CDFW) and the Central Valley Water Board with a copy of the petition. CDFW and the Central Valley Water Board did not respond with any information regarding potential effects of the proposed changes on water quality, fish, wildlife, and other instream beneficial uses.

As conditioned, there will be no change in the amount of SWP or CVP water diverted at Banks or Jones. Therefore, no associated change in flow or water quality conditions in the Delta should result from the changes proposed in the petition. All water exported at Banks and Jones is required to be pumped consistent with the applicable regulatory restrictions and court orders governing SWP and CVP operations.

The exchanges will not result in a measurable change in quantity or quality of return flows. There will be no increase in either SWP or CVP allocations as a result of the proposed exchanges. There could be some shift in the timing of deliveries of SWP and CVP allocated supplies that already have been exported south of the Delta; however, this will not significantly affect streamflow.

Exchanges similar to those proposed above have been implemented in previous years by both DWR and Reclamation. No measurable effects on fish, wildlife or other instream beneficial uses were noted from those exchanges.

In light of the above, I find in accordance with Water Code section 1728, subdivision (b)(2) that the proposed temporary change of DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 will not unreasonably affect fish, wildlife, or other instream beneficial uses.

7.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY

On June 5, 2012, the State Water Board adopted Resolution 2012-0029, delegating to the Deputy Director for Water Rights the authority to act on petitions for temporary change if the State Water Board does not hold a hearing. This Order is adopted pursuant to the delegation of authority in Section 4.4.2 of Resolution 2012-0029 and the Deputy Director for Water Rights redelegation of authority dated April 20, 2023.

8.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1727, and therefore I find as follows regarding DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364, for each of the following exchanges proposed in the petition: (a) 125,000 af to Valley Water; (b) 180,785 af for various Kern County WA exchanges; and (c) 100,000 af to Arvin-Edison-Metropolitan.

I conclude that, based on the available evidence:

1. The proposed exchange involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.
2. The proposed temporary change will not injure any legal user of the water.
3. The proposed temporary change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition for change involving water transfers filed for temporary change in the place of use, under DWR's Permit 16479 and Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 for exchange of up to 405,785 af of water is approved.

All existing terms and conditions of DWR's and Reclamation's subject license and permits remain in effect, except as temporarily amended by the following provisions:

1. The exchanges of water are limited to the period beginning on July 22, 2023 and continuing for up to one year.
2. The place of use under DWR's Permit 16479 is temporarily expanded to include portions of the CVP service area shown on the map titled *Map 2: Areas to be added to SWP Authorized Place of Use*, Map No. 214-202-83.
3. The place of use under Reclamation's License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973 and 12364 is temporarily expanded to include portions of the SWP service area as shown on the map titled *Map 1: Areas to be added to CVP Authorized Place of Use*, Map No. 214-202-84.
4. Water exchanged pursuant to this Order shall be limited to a maximum quantity of 405,785 af as follows: (a) 125,000 af to Valley Water; (b) 180,785 af to various Kern County WA exchanges; and (c) 100,000 af to Arvin-Edison-Metropolitan.
5. This approval is limited to the exchanges described in this Order and only those additional south-of-Delta exchanges that meet the criteria set forth in this Order and which receive prior State Water Board approval. This approval does not extend to any exchanges under DWR's or Reclamation's water rights in excess of the total of 405,785 af authorized under this Order. The exchanges identified in this Order and any future exchanges are limited as follows: 1) the exchanges shall not result in any increase in the amount of water diverted from the Delta or in an increase in Project contract allocations; 2) the water to be exchanged shall be part of available Project allocations, water currently stored in San Luis Reservoir, or previously placed in groundwater storage south of the Delta; 3) the water to be exchanged must be water that would have been consumptively used or stored in the absence of the transfer; 4) the total quantity of water delivered to SWP or CVP contractors as a result of the change shall not exceed historic average deliveries; 5) the transfer or exchange shall not result in the net loss of San Joaquin River or Sacramento River flow or Delta outflow; and 6) the transfer or exchange shall not result in an increase in saline drainage to the San Joaquin River or the Delta.

If a south-of-Delta exchange is not specifically identified and described in this Order, the exchange may occur only after the Deputy Director of Water Rights determines that the exchange will be implemented in accordance with the conditions of this Order. Requests should be addressed to the Deputy Director of Water Rights. Petitioners should anticipate a determination on the requests no sooner than ten (10) full business days after submittal. Requests should be submitted on the form entitled "Petition for Change Involving Water Transfers" available on the Division's website. Petitioners should annotate "Request per Consolidated Place of Use Order" at the top of the form. The request shall include a description of the amounts to be exchanged, how the exchange will be in compliance with each condition listed in this Order, and how the total exchange amount of 405,785 af by this Order will not be exceeded with the additional exchanges.

6. If, at any time prior to or during the period of the transfer, the State Water Board curtails the water rights involved in the exchanges, only water collected to storage prior to the curtailment may be exchanged.
7. Diversion of water at the Delta Pumps is conditioned upon compliance by the operators with the objectives currently required of Petitioners set forth in Tables 1, 2, and 3 on pages 181-187 of D-1641 or as modified through approval of temporary change petitions applicable to the water rights involved in this petition. In addition, this transfer is conditioned on compliance with the various requirements for use of Stage 1 Joint Points of Diversion (JPOD) by Petitioners under D-1641. Diversion of water is also conditioned upon compliance by Petitioners with all applicable water right license and permit requirements, federal and California Endangered Species Act requirements (ESA), including applicable Biological Opinions (BOs), Incidental Take Permits (ITP), court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.
8. Diversion of water at the Delta Pumps is also conditioned upon compliance with applicable State Water Board orders establishing temporary or interim operating conditions during the transfer period, unless the State Water Board has specifically exempted conveyance of exchange water from the order.
9. The exchange period authorized in Condition 1 of this Order is further limited to the period allowed pursuant to any applicable BO, ITP, or federal or State ESA requirements related to transfers at the Delta Pumps. Petitioners shall provide documentation of the diversion period allowed pursuant to the BO, ITP, or federal or State ESA requirements prior to exchange of water. Such documentation may include an electronic link to any transfer BOs, ITPs, or other federal or State ESA consultations, informal consultations, opinions, or other documents issued by the California Department of Fish and Wildlife, National Marine Fisheries Service, or U.S. Fish and Wildlife Service.

10. By the 25th day of each month following approval of this Order, the Petitioners shall electronically submit a monthly report detailing the amounts transferred or exchanged in the previous month. Data used to generate the report shall be provided electronically in a comma-separated values (.csv) file format and shall be compatible with an open data portal platform related to Assembly Bill 1755. All water transferred/exchanged shall also be documented and accounted for by each purpose of use. The report shall document, listed by specific exchange, the dates of the exchanges that have occurred, the amount exchanged between each project (CVP or SWP), gains or losses in groundwater banks, and the remaining quantity authorized to be exchanged. The report shall also include documentation that the water exchanged did not result in any increase in water diverted to SWP and CVP facilities from the source waters of DWR's permit and Reclamation's license and permits beyond the quantities that would otherwise have been diverted absent the transfer.
11. Within 90 days of the completion of the transfer, the Petitioners shall provide to the Deputy Director for Water Rights one or more tables describing the transfer authorized by this Order. Data used to generate the table(s) shall be provided electronically in a comma-separated values (.csv) file format and shall be compatible with an open data portal platform related to Assembly Bill 1755. The table(s) shall include the monthly and total amounts of water delivered under the transfer to Valley Water; participating Kern County WA exchanges; and Arvin-Edison-Metropolitan; and any other entities receiving transfer water in accordance with Condition 5 for the period covered by this exchange. The table(s) shall include SWP and CVP deliveries, other water transfers, and any other amount of Delta water each user received.
12. Pursuant to Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this temporary change order, including method of use and quantity of water diverted, are subject to the continuing authority of the State Water Board to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the State Water Board also may be exercised by imposing specific requirements over and above those contained in this Order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.
13. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California ESA (Fish & G. Code, §§ 2050-2097) or the federal ESA (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any action authorized under this Order, the Petitioners shall first obtain authorization for an

incidental take permit prior to undertaking that action. Petitioners shall be responsible for meeting all applicable California ESA and federal ESA requirements for the temporary change authorized under this Order.

14. The State Water Board reserves authority to supervise the exchange and use of water under this Order and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

Erik Ekdahl, Deputy Director
Division of Water Rights

Dated: JUL 21 2023